MULTIMEDIA UNIVERSITY

STUDENT ID NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 2, 2022 / 2023 SESSION

UIF2612 – ISLAMIC FAMILY LAW

(All Sections / Groups)

14th JULY 2023
Reading Time : 9.00 a.m. – 9.15 a.m.
(15 Minutes)
Answering Time: 9.15 a.m. – 12.15 p.m.
(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes only in their question paper. Students then have the remaining **three hours** in which to answer the questions.

2. This question paper consists of 4 pages with 5 questions only.

3. Attempt **ALL** questions in **PART A** which are COMPULSORY and **TWO** questions in **PART B**. The distribution of the marks for each question is given.

4. Students are allowed to bring into the Examination Hall **CLEAN** and **ORIGINAL** copies of Islamic Family Law (Federal Territories) Act 1984 [Act 303] and the Al Qur'an Translation. **Students are not allowed to lend or borrow** these documents **during the Examination.**

5. Write all your answers in the Answer Booklet provided.

PART A (ALL QUESTIONS ARE COMPULSORY TO BE ANSWERED)

QUESTION 1

Melur and Bahar were divorced 2 years ago after 10 years of marriage. Bahar was a womaniser and failed to pay maintenance to the wife and children especially during the last 2 years of their marriage. Bahar's parents advised them to do something to save the marriage, but Melur did not find any way possible to save the marriage.

During the marriage, they were not able to purchase any property as Bahar was not financially stable. However, Bahar's grandmother had given him a unit of single-storey terrace house by way of *hibah* before her death. They lived in the house during the marriage. Melur had spent her money to renovate and decorate the house as the house was not in a good condition when they started staying there.

They have 2 children, Mawar, 9 years old and Mahadi, 5 years old. However, Bahar claimed that the eldest child, Mawar, was an illegitimate child as she was born after 6 months but before 9 months of marriage.

Based on the above, discuss the principles of Islamic family law to advise Melur on the following:

a) the ancillary claims that she can file against Badar upon dissolution of marriage (on the assumption that the *maskahwin* has been fully paid and the accommodation during iddah has been waived).

(10 marks)

b) the status of Mawar.

(4 marks)

c) the maintenance of the children.

(7 marks)

d) If Badar still failed to give maintenance to the children even after the court has issued an order to him to pay maintenance, what are the avenues available to enforce the order?

(4 marks)

(Total 25 Marks)

Continued .....

QUESTION 2

Matrimonial assets or *harta sepencarian* refers to any property or assets acquired by either party to a marriage during the subsistence of the marriage. The division of the assets varies according to the contribution of each party towards the acquisition of the assets.

In light of the above statement, explain in what circumstances the assets could be claimed by a woman as *harta sepencarian*. Elaborate *harta sepencarian* in the context of Islamic Family Law (Federal Territories) Act 1984 and the principles from decided cases. Prepare some recommendations and amendments in order to further improve the law.

(Total 25 Marks)

PART B (ANSWER TWO OUT OF THE THREE QUESTIONS)

QUESTION 3

Khairi and Liana were cousins, and they were married by their families when Khairi was 20 years old and Liana was 17 years old, right after she sat for her SPM examination. The marriage was solemnized by Liana's elder brother, Leman, as her father was imprisoned for a drug case. However, Liana's grandfather from her father's side, Haji Ali, was still alive and he did attend their wedding after the solemnization took place. Besides that, during the solemnization, the payment of dowry was deferred as Khairi was unemployed.

After a year of marriage, and Liana was six months pregnant, she was confused on the validity of her marriage with Khairi as she heard from her friend that her marriage was invalid due to her age, *wali* and a deferred dowry. Liana was also concerned about her rights as a married woman, as she was not given any maintenance by Khairi. Khairi always justified his failure to maintain Liana with the fact that she was employed with a job whereas he was jobless. Khairi also had yet to pay her dowry since he was not working.

Assess Liana's circumstances and advice her on the validity of her marriage and her rights as a married woman.

(Total 25 marks)

Continued .....

QUESTION 4

Asri had married Endah, an Indonesian lady, at Endah's hometown in Lombok, Indonesia. The marriage was validly solemnized by Endah's father, and witnessed by Endah's cousins, Ahmad and Ali. However, when the marriage was solemnized, Asri was already married to Farah and they had a matrimonial home in Setapak, Kuala Lumpur. Asri's second marriage was not informed to and assented by Farah. Hence, when the news reached Farah, she became depressed to the extent of attempting suicide. Farah's reacted so because she had been loyal and obedient to Asri despite his failure of providing her with maintenance. Asri on the other hand justified that his second marriage was a necessity since they were not blessed with an offspring despite years of marriage.

Based on the above:

a) Discuss, in accordance with *Hukum Syarak* and the Islamic family law, whether Asri was justified in contracting a polygamous marriage with Endah?

(10 marks)

b) Assuming his second marriage was valid, explain the procedures to register the marriage and the consequences for contracting a polygamous marriage without the permission of the Syariah Court.

(7 marks)

c) Assuming that Farah wanted to dissolve their marriage, assess whether she could apply for *fasakh.*

(8 marks)

(Total 25 Marks)

QUESTION 5

Mamat, a technician living in Sentul, Kuala Lumpur was attracted to his neighbour, Suraya, a registered nurse. He once expressed his love to Suraya and proposed to her to get married, but she did not give any response. Recently, Mamat was told by his friend that Suraya had accepted a proposal by Munir and had been engaged to him. Mamat was so frustrated as he thought Suraya's silence was a sign of her acceptance.

As preparation for the planned wedding, Suraya spent around RM5000 for the deposit of catering for her reception ceremony. However, one month ahead of their wedding, Suraya found out that Munir was married with two children. She was so upset with Munir, and she called off the marriage.

Continued .....

Suraya flew to Bandung to heal her grievances and she met Saiful, a manager in a local company in Bandung. Saiful politeness charmed Suraya and she decided to marry him. Suraya called and informed the matter to her father, Haji Din, who happen to know Saiful, and her father objected the intended marriage as he knew Saiful was a womanizer, never prays and a frequent visitor to nightclub.

Based on the above facts, predict the following issues:

a) Whether Suraya engagement with Munir was valid?

(5 marks)

b) Whether Suraya could claim for the amount she spent for the proposed wedding?

(5 marks)

c) Whether Suraya proposed marriage is valid without Haji Din's consent, assuming that they could find an authorized *wali hakim*?

(10 marks)

d) Assuming that Saiful already has four wives, and he refused to divorce one of his wives, could their marriage be allowed according to Islamic family law?

(5 marks)

(Total 25 marks)

End of Page